IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.35184 of 1998

Dated: 28-03-2007

Between:

1. S. Heam Singh, s/o late Purshottam Singh & 3 others.

... Petitioners

and

1. The Appellate Authority Under
   Urban Land (Ceilings & Regulations)
   -cum-Commissioner of Land Revenue,
   Andhra Pradesh, Hyderabad and 2 others.

... Respondents

ORDER:

Questioning the order of first respondent in Hyd/170/97, dated 03-08-1998, the present writ petition has been filed seeking to set aside the same and consequently direct first respondent to entertain the appeal filed by petitioners on merits.

2. Facts, in brief, are: The land in an extent of 12,494 sq. yards in

Sy.Nos.48, 49, 50 and 55 correlating to T.S.Nos.6, 8 and 10 of Baghlingampalli, Musheerabad Mandal, Hyderabad belongs to the ancestors of petitioners. As soon as the Urban Land Ceiling Act,

(for short, 'the Act') came into force, the father of petitioners filed a declaration under Section 6 of the Act and he has also filed an application under Section 20 of the Act for exemption of the land. All the petitioners also filed exemption petition and the same are still pending with the Government. In the meanwhile, second respondent issued Notice under Section 8 of the Act on 24-11-1984 proposing to declare 11,894 square meters of land out of 12,494 square meters as surplus under the Act and petitioners and their mother submitted objections stating that the land is an ancestral property. The second respondent passed an order on

25-03-1986, wherein while rejecting the objection of petitioners declared that 11,494 square meters as surplus land out of 12,494 square meters. According to petitioners as the exemption petition filed by them under Section 20 of the Act is pending with the Government, they have not filed any appeal against the order passed by the second respondent. Be that as it may, petitioners were served with Proceedings under Section 10(5) of the Act on 09-09-1997, wherein it has been notified that in pursuance of the orders of second respondent, the surplus land of 11,494 square meters held in the names of petitioners stood rested in the State Government w.e.f. 20-01-1997 and the possession of the same shall be handed over within ten days from the date of service of notice. Thereupon, petitioners filed an appeal before first respondent with a petition to condone the delay in filing the appeal and also filed an application to stay of all further proceedings. As the first respondent did not pass any orders on the stay petition and third respondent was trying to take possession of the

land from the petitioners, they filed W.P.No.13687 of 1998 and this Court disposed of the said writ petition on 13-05-1998 with a direction to first respondent to dispose of the appeal expeditiously and in the meanwhile not to disturb the possession of petitioners. Pursuant to the said orders, first respondent entertained the delay condonation petition filed by petitioners and dismissed the said petition vide order dated 03-08-1998 and consequently rejected the appeal. Assailing the said orders, petitioners have come up with the present writ petition.

3. Heard learned counsel for the parties.

4. No doubt, the delay is abnormal, but on that score, this Court is not inclined to reject this writ petition, particularly when this Court on 28-12-1998 while issuing Notice Before Admission directed the parties to maintain *status quo.* Despite the service of notice on the respondents, they have not chosen to file any counter affidavit. Having regard to the facts and circumstances of the case, I deem it appropriate to direct the appellate authority to entertain the appeal and pass appropriate orders after affording sufficient opportunity to the petitioners.

5. Accordingly, the writ petition is allowed setting aside the Proceedings in Hyd./170/97, dated 03-08-1998 passed by first respondent. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.28-03-2007
GLV